

Supreme Court won't hear manslaughter sentence appeal

By Kristin M. Kraemer, Herald staff writer

PASCO -- A convicted killer is back in the Franklin County jail for resentencing after the Washington state Supreme Court refused to consider his appeal.

DeLonde Pleasant had sought discretionary review by the state's highest court of a Superior Court judge's ruling that a jury should be seated to decide if his actions were excessive in 2002 when he killed his girlfriend.

Pleasant, 32, believes he has done the necessary time for his first-degree manslaughter conviction and wants to be set free.

But the Supreme Court denied the review, eight months after a state Court of Appeals commissioner denied a similar request and validated the judge's ruling.

Pleasant was returned to the Department of Corrections earlier this year and held in Airway Heights Corrections Center near Spokane while the appeal was pending. He was sent back to Pasco on Tuesday.

On Friday, Prosecutor Steve Lowe told Judge Cameron Mitchell that now that Pleasant's appeals are exhausted, it's time to move forward with sentencing. Lowe said it should be set within 40 days, or by Sept. 15.

However, Douglas Phelps, Pleasant's Spokane lawyer, said his client first needs a court-appointed attorney since he was hired for the appellate process and was doing "primarily pro bono work." Phelps suggested the court keep him on the case to "provide the continuity of representation."

Mitchell granted the request and said Phelps should talk to Eric Hsu, indigent defense coordinator of the Office of Public Defense for Benton and Franklin counties.

Pleasant is due back in court Thursday to schedule his sentencing.

The length of his prison term has been in question since a Court of Appeals panel in January 2009 overturned his sentence of 25 1/2 years and ordered resentencing.

Pleasant entered an Alford plea in January 2003 for kicking and beating Juanita Montelongo to death after he came home in a drunken rage.

Montelongo lived with Pleasant and they had a 2-year-old son together.

The Court of Appeals, in throwing out Pleasant's sentence, said if prosecutors wanted to ask for a sentence above the standard range of 6 1/2 to 8 1/2 years in prison, they needed to seat a jury to determine if the aggravating factors warranted the extra time.

Pleasant's Alford plea was not an issue and stands.

A year ago, Mitchell granted a prosecution motion to impanel a jury. He ruled Pleasant's constitutional rights were not violated and he was properly notified that prosecutors were seeking additional prison time.

Prosecutors have said they want jurors to decide if the crime involved deliberate cruelty, happened in the presence of the couple's young son and involved excessive force.

If a jury returns special verdicts on those factors, then Mitchell is justified in sentencing above the standard range.

Phelps had argued that Pleasant had a strong diminished capacity defense for the crime and only took the plea bargain because it wouldn't allow a sentence above eight years.

Pleasant has served a little less than 8 1/2 years since his arrest.

-- Kristin M. Kraemer: 509-582-1531; kkraemer@tricityherald.com

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